

from Counsel to the President Abner Mikva and Deputy Counsel Joel Klein to White House staff, addressing “White House Contacts with Agencies and Departments Regarding Investigations, Enforcement Actions, and Adjudications.”<sup>335</sup> The memo stated that these categories of White House contacts are “particularly important” contacts, and that it is “imperative” that “all” White House staff abide by the rules set out in the memo. After defining the relevant terms (including “adjudication”),<sup>336</sup> the memo stated that any contact made by the White House in connection with adjudicatory and the other enumerated actions “should be undertaken only by the Counsel’s Office.” The memo enjoined White House staff: “You should not contact any department or agency regarding any such matter. Rather, you should request that the contact be made by the Counsel or Deputy Counsel, who will decide whether the contact is appropriate . . . .” The memo further provides that staff likewise should consult Counsel’s Office if anyone contacts the White House about making such a contact. Notably, the memo also stated that if the staff member had any “question about whether a department or agency matter involves

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<sup>335</sup>Based on documents produced by the White House, this memo appears to embody the policy that would have been in force throughout the first half of 1995. This office first sought documents reflecting exactly this type of policy in a subpoena served May 28, 1998. Based on representations made by the White House Counsel’s Office in response to the original subpoena demand, this Office did not know for nearly a year that such memoranda actually existed, and the responsive documents were not produced until June 16, 1999, after interviews and Grand Jury examinations of nearly all White House witnesses had been completed.

<sup>336</sup>Adjudication is defined in the memo as a matter “decided at an administrative or judicial hearing, or similar proceeding in which a department or agency determines the rights of particular individuals or entities.” Cf. 5 U.S.C. § 551 (Administrative Procedures Act defining “adjudication” as the “agency process for formulation of an order” and defining “order” as “the whole or a part of a final disposition, whether affirmative, negative, injunctive or declaratory in form, of an agency in a matter other than rule making but including licensing”).